

Translation

PATENT COOPERATION TREATY

PCT

PCT/FR2002/004559



500, 107

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Rec'd PCT/PTO 23 JUN 2005

Applicant's or agent's file reference BET 02/1228	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/FR2002/004559	International filing date (day/month/year) 24 décembre 2002 (24.12.2002)	Priority date (day/month/year) 26 décembre 2001 (26.12.2001)
International Patent Classification (IPC) or national classification and IPC C01B 33/193, A61K 47/02, 7/16, 7/48, A23L 1/059, C08K 3/36		
Applicant RHODIA CHIMIE		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. ☒ (sent to the applicant and to the International Bureau) a total of 5 sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application

Date of submission of the demand 20 juin 2003 (20.06.2003)	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4)
- ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☐ The international application as originally filed/furnished
- ☒ the description:
- pages _____ 1-31 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- pages _____ 1-27 _____, as originally filed/furnished
- pages* _____, as amended (together with any statement) under Article 19
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ the drawings:
- pages _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Supplemental Box Relating to Sequence Listing

Continuation of Box No. 1, item 2:

1. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this report was established on the basis that of:
 - a. type of material
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing
 - ☐ contained in the international application as filed
 - ☐ filed together with the international application in computer readable form
 - ☐ furnished subsequently to this Authority for the purpose of search and/or examination
 - ☐ received by this Authority as an amendment* on _____
2. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
3. Additional comments:

** If item 4 in Box No. 1 applies, the listing and /or table(s) related thereto, which form part of the basis of the report, may be marked "superseded".*

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-27	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-27	NO
Industrial applicability (IA)	Claims	1-27	YES
	Claims		NO

2. Citations and explanations

Reference is made to the following documents:

D1: WO 95 09128 A (RHONE POULENC CHIMIE; CHEVALLIER YVONICK (FR); PRAT EVELYNE (FR)) 6 April 1995 (1995-04-06);

D2: WO 95 09127 A (RHONE POULENC CHIMIE; CHEVALLIER YVONICK (FR); PRAT EVELYNE (FR)) 6 April 1995 (1995-04-06).

1. Novelty (PCT Article 33(2)):

Independent claim 1 of the present application proposes a method for preparing a precipitation silica in 5 basic steps designated (a) to (e). It is specified that, during step (c), the silicon concentration, expressed as the SiO₂ equivalent, in the medium is no higher than 35 g/L.

The cited prior art does not mention this requirement.

It follows that the subject matter of claims 1-27 is novel.

2. Inventive step (PCT Article 33(3))

Document D1 is considered to be the closest prior art.

The subject matter of claim 1 differs from D1 by virtue of the silicon concentration, expressed as the SiO₂ equivalent, in the medium during step (c) of the method. This concentration must be no higher than 35 g/L.

The method as per D1 uses aqueous solutions of sodium silicate and sulphuric acid, respectively, in concentrations within the ranges proposed in the present application. However, the concentration, expressed as the SiO₂ equivalent, in the medium during the simultaneous addition of the aqueous solutions is not specified clearly.

An estimation of this concentration for example 7 would be approximately 56 g/L.

The features that differentiate claim 1 from the prior art do not appear to lead to any special technical effect. No comparative tests are available that would make it possible to prove such a technical effect. As a result, the method of the present invention constitutes an alternative method.

The applicant has not demonstrated that selecting a concentration, expressed as the SiO₂ equivalent, of less than 35 g/L leads to a surprising effect in comparison with the compositions disclosed in D1.

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This selection corresponds to an arbitrary selection for which no reasons have been given and for which no inventive step can be acknowledged.

It follows that the subject matter of claim 1 does not involve an inventive step.

The subject matter of dependent claims 2 to 27 is known from D1 or D2 and cannot contribute to an inventive step.